CANADIAN Taxpayers FEDERATION
Fighting for taxpayers

THE TAXPAYER

Centre for Aboriginal Policy Change 2004-05 Special Edition

POVERTY TO PROSPERITY

Private Property Rights

Since 1997, the Canadian Taxpayers Federation (CTF) has been urging the federal government to implement a system of private property ownership on Indian reserves in Canada as a way to reduce poverty.

Our latest call to Ottawa was April 2004 with our report, "Apartheid – Canada's Ugly Secret." Regrettably, the Indian Affairs Minister of the day, Andy Mitchell, quickly dismissed the idea on the basis that it overlooked the "basic tenet of Aboriginal life" that property is held by a community rather than individuals.

What a difference an election and cabinet shuffle can make.

Five months later, the new Minister of Indian Affairs, Andy Scott, expressed he was prepared to look at private ownership of housing on reserves. Specifically, Scott said, "I think it's something that has to be explored as a possibility. We've got some serious problems. Conventional approaches haven't solved them, so I'm prepared to look at anything."

This is a tremendous step forward for the prosperity of native Canadians and a success for the CTF. The CTF has sent a copy of "Apartheid – Canada's Ugly Secret," to Minister Scott and strongly encouraged him to read and implement the paper's recommendations.

If native communities are to become economically self-sustaining, the reserve land which is now held in trust by the Crown should be transferred to individual natives who comprise the native community. It would then be up to natives themselves to decide if they want to transfer the land into a communal arrangement or allow for the property to be owned and managed individually. Other Canadians have this choice, so too should native Canadians.

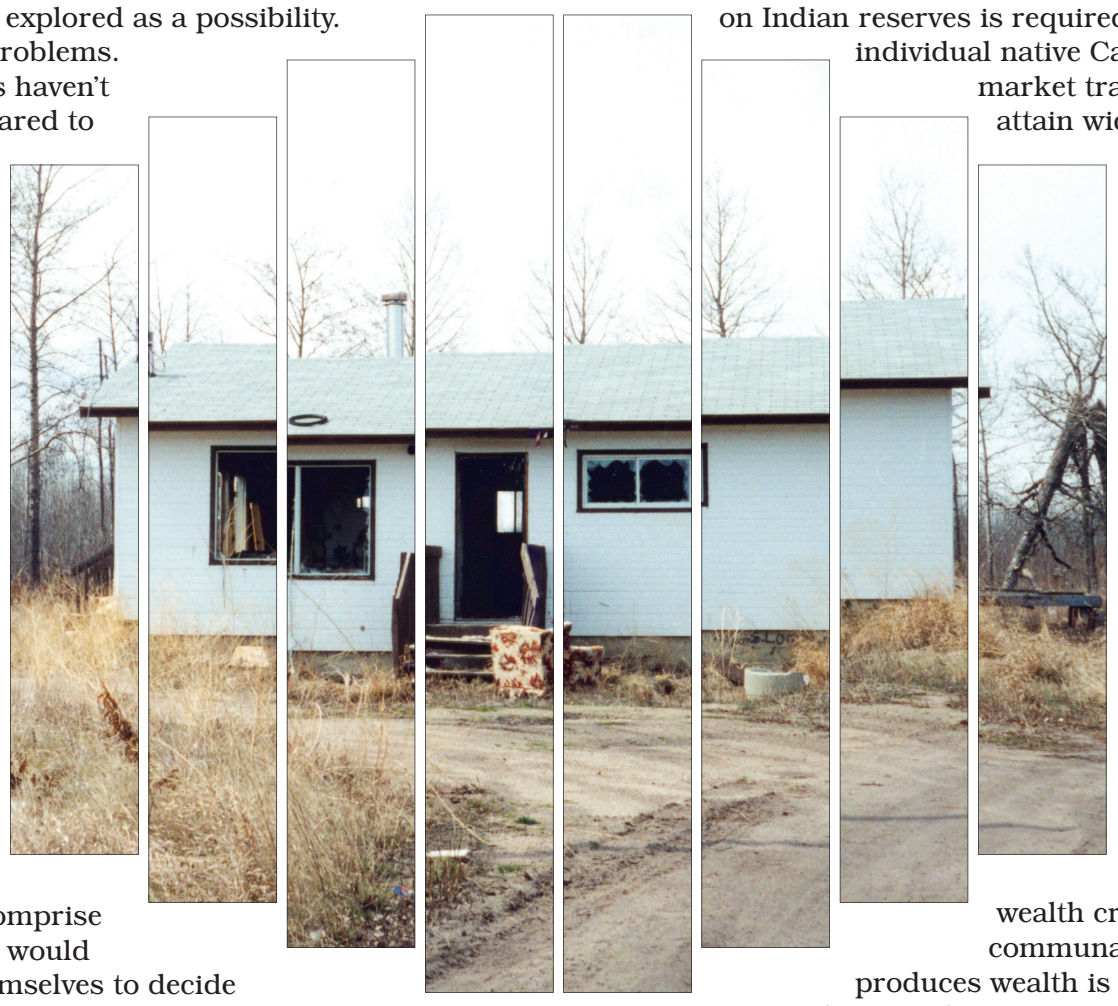
Even with the limited forms of property ownership available to native Canadians, the communal arrangement imposed by the *Indian Act* produces problems. As a result, native Canadians living on reserves do not own their houses in fee simple – like most Canadians. This has lead to a lack of desire on the part of native Canadians to maintain, repair or renovate their homes.

Furthermore, most Canadians can borrow against their own private property and thus obtain capital to invest in new business ventures. Capital formation allows for economic expansion and accumulation of wealth. But without property as collateral, individuals on reserves have difficulty obtaining credit or doing deals with outside investors. The wealth of their land is under-utilized.

Many Indian bands make use of Certificates of Possession (COP), to better utilize the wealth of their land. A holder of a COP transfers the certificate to the Indian band as collateral. This land does have some economic value on the reserve but off the reserve it is difficult to obtain a mortgage or loan.

That said, the process of paying for one's house promotes pride of ownership which results in individuals maintaining, repairing and renovating their property, thus saving taxpayers millions of dollars. Therefore, COPs can be used as a step toward securing individual private property for Indians.

Developing workable systems of private property rights on Indian reserves is required. This will empower individual native Canadians and facilitate market transactions necessary to attain widespread prosperity on Indian reserves. Private property rights that are stable and transferable are the foundation for wealth creation the world over and communally held property that produces wealth is the exception, not the rule.



> "As a result, native Canadians living on reserves do not own their houses in fee simple – like most Canadians. This has lead to a lack of desire on the part of native Canadians to maintain, repair or renovate their homes."

Let's hope Andy Scott's words are not hollow. Paul Martin's government killed the *First Nations Governance Act* – that would have seen increased accountability for reserves. However, it appears this new minister at least is beginning to think outside the box; at minimum, his suggestions merit a pilot initiative. It's time native Canadians were given the same right to own property as other Canadians.■


NATIVE RESERVES

Home ownership being considered

By BILL CURRY
CanWest News Service

OTTAWA — Indian Affairs Minister Andy Scott says
repared to look at private ownership of housing
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," said Scott, when asked for his posi
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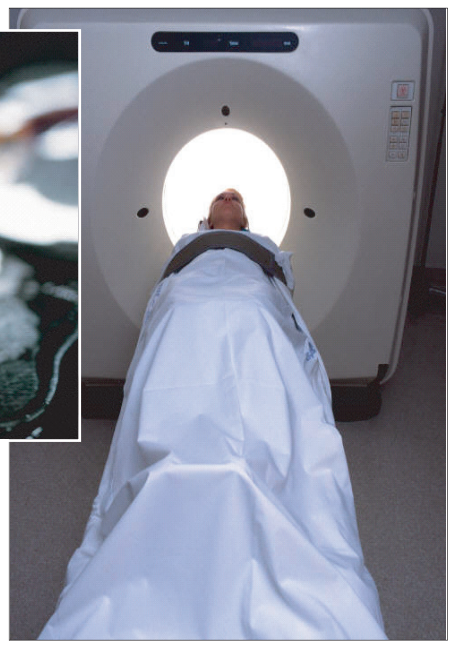
National Post editorial, September 8, 2004

> *"In [Apartheid – Canada's Ugly Secret], Ms. Fiss suggested doing away with reserves altogether; in their place, she proposed giving deeded ownership to individual Aboriginals. Given the degree to which the present system of communal ownership holds native communities back, the proposal made good sense ...*
>
> *What Mr. Scott appears most open to is some form of compromise between the status quo and the radical change that Ms. Fiss has proposed."*

A PARALLEL PRIVATE HEALTH CARE SYSTEM FOR ALL



> "Ottawa should learn from these countries and the Indian bands within Canada, by giving Canadians the choice of spending more of their own money to get better health care and more of it."

The Muskeg Lake Cree Indian Band in Saskatchewan is planning to build a fee-for-service health clinic on its reserve. The Canadian Taxpayers Federation advocates for a parallel private health care system for all Canadians. However, this proposal illustrates why the *Indian Act* must be abolished and why the *Canada Health Act* must be amended in order for all Canadians to be treated equally.

Specifically, the Muskeg Lake Cree Indian Band is planning to construct a health clinic on its reserve near Saskatoon. The clinic will include a laboratory, pharmacy and magnetic resonance imaging (MRI) machine.

How is this possible under the current system which prohibits fee-for-service health care?

The *Indian Act* applies to Indian reservations and to those status Indians who choose to live on reservations. What is startling for most Canadians to learn is that the *Indian Act* exempts Indian reserves from several pieces of federal legislation. Two pieces of federal legislation that apply throughout Canada, but do not apply to Indian reservations are: the *Canada Health Act*, and *Charter of Rights and Freedoms*.

Furthermore, provincial legislation and municipal by-laws do not apply to Indian reserves.

It is precisely these exemptions that are making it possible for the Muskeg Lake Cree Indian Band and other Indian communities, to begin the process of operating fee-for-service private health clinics.

Laws must be applied equally to all citizens, or not applied at all. Having two sets of laws for its citizens, as Canada does, is wrong both morally and intellectually. Canada must eliminate the current inequality which is brought about by the *Indian Act* by abolishing it.

Currently the *Canada Health Act* (CHA) prohibits the delivery of private health care services within Canada. The CHA should be amended to increase the role of the private sector. Successes involving the private sector in the delivery of health-care can be seen in countries like, Germany, Australia, Sweden, Singapore and Britain.

Ottawa should learn from these countries and the Indian bands within Canada, by giving Canadians the choice of spending more of their own money to get better health care and more of it. Allowing a parallel, private system to co-exist along side the public system — as is done throughout the world — is key to improving Canada's health care system.

This requires an amendment to the *Canada Health Act* by replacing the principal of public administration with the principles of choice, sustainability, quality and accountability. The government will, of course, continue to provide support for core services, but also grant access to private providers to deliver health care.

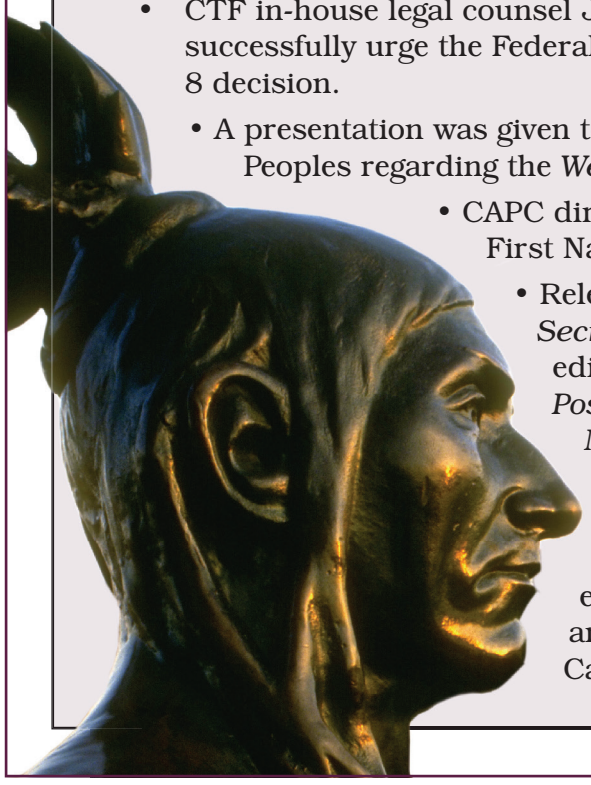
It is very important native Canadians enter the mainstream of Canada's economy. Viable business ventures, like these, are one way to achieve this. However, for the sustainability of Canada's social, cultural and political fabric Canadian laws must apply equally to all citizens. ■

Sign our Petitions

For more information on the Centre for Aboriginal Policy Change and recent petitions, its articles, campaigns and petitions, check out our website at: www.taxpayer.com and click on "Aboriginal Centre".

CAPC Highlights Since 2002

- Presentation given to the House of Commons Standing Committee on Aboriginal Affairs regarding the *First Nations Governance Act* and the *First Nations Statistical Management Act*.
- CTF in-house legal counsel John Carpay traveled to Ottawa to successfully urge the Federal Court of Appeal to overturn the Treaty 8 decision.
- A presentation was given to the Senate Committee for Aboriginal Peoples regarding the *Westbank Self-Government Agreement*.
- CAPC director, Tanis Fiss, met with Assembly of First Nations Grand Chief, Phil Fontaine.
- Release of *Apartheid – Canada's Ugly Secret* position paper received positive editorial coverage in the *National Post*, *Globe and Mail*, *Ottawa Citizen*, *Montreal Gazette* and *Calgary Herald*.
- A cross-country tour to promote Apartheid earned the Centre's director several speaking engagements, editorial board meetings, and radio and TV appearances across Canada.



Centre for Aboriginal Policy Change

Founded in 2002, the Centre for Aboriginal Policy Change (CAPC) is a branch of the Canadian Taxpayers Federation dedicated to monitoring, researching and providing alternatives to current Aboriginal policy and court decisions under the guiding principles of support for individual property rights, equality, self sufficiency and democratic and financial accountability.

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CAPC director Tanis Fiss points to the root of Canada's Aboriginal problems.

PC's Latest Study

PARTHEID: Canada's Ugly Secret

more than 100 years the *Indian Act* has regated Indians from Canadian society. targeting one segment of Canadian e Act isolates Indians from other citizens by placing them on reserves; ystem limits their ability to fully e in the economy.

per outlines the history of the Indian ystem and shows that increased nt spending and incentives have not the conditions of Indian reserves in In addition, the paper outlines the current legislation and policy has For Indian communities to compete lly within the Canadian economic m, the Indian reserve system in Canada hased out.

ost imperative ingredient for native ties to have long-term economic viability ual private property rights. The key ing wealth and prosperity is easily le individual property that can be for loans and wealth creation. Most s can borrow against their own private and thus capital is obtained to invest in ess ventures.

nately, the land which comprises a held in trust by the Crown and is l collectively by the native band council, lividuals. This treatment of native s under the *Indian Act* is unequal reason why many people in native ties live in poverty.

mmunal arrangement imposed by *n Act* produces problems for native eurs. Business owners typically raise providing their home or other real as collateral. But since on-reserve nadians do not own their property in fee is extremely difficult to sell, mortgage ise use the land as a source of debt Therefore, the wealth of the land is ized.

re individuals who choose to hold n a communal manner. For example, s choose to hold property in a communal But, this is their choice, not an imposition.

Clearly, treating one group of Canadians differently is wrong both morally and intellectually. For the last 50 years the world has seen human rights legislation passed in a number of countries. All of this legislation has equality of rights and responsibility at its core. Nevertheless, Canada continues to move down the path of segregation and balkanization. If not reversed, this trend toward division, will only serve to weaken our cultural, political and economic fabric.

The following four recommendations are detailed in the paper:

Recommendation 1:

The Canadian government must abolish the Indian reserve system. Thus allowing individual native Canadians the freedom to choose how and where they wish to live.

Recommendation 2:

The tax exemption now provided for Indians living and working on reserves is a provision of the *Indian Act*, not the Canadian Constitution. The *Indian Act* is like any other piece of legislation, capable of being amended and/or abolished at any time. Taxation at all levels (municipal, provincial, federal) should be phased in for Indians over a period of ten years.

Recommendation 3:

If native communities are to become economically self-sustaining, the reserve land which is now held by the Crown should be transferred to individual natives living on-reserve. It will be up to natives themselves to decide if they want to transfer the land into a communal arrangement or allow for the property to be owned and managed individually.

Recommendation 4:

As a step toward the elimination of the Indian reserve system, no new reserves, or "urban reserves" should be established.

The Canadian Taxpayers Federation believes Canadians – all Canadians are fundamentally alike. Therefore, all legislation and government policy must be based on fairness and equality – not race. As former Prime Minister Trudeau once stated, "The time is now to decide whether the Indians will be a race apart in Canada or whether [they] will be Canadians of full status." In other words, the time for equality is now. ■


Dump native reserve system: report

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summit

BILL CURRY
WEST NEWS SERVICE
OTTAWA
SEAN MYERS
CALGARY HERALD
CALGARY

Policy Change
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Editorial comment on CAPC's report:

***Globe and Mail* April 20, 2004**
"The report's conclusion – that the Indian Act itself should be abolished and reserves parcelled out as private property to the people who live on them – is relatively radical stuff. But its author, Tanis Fiss makes a compelling argument."

***Ottawa Citizen* April 21, 2004**
"Its recommendation that Canada scrap the reserve system should not be dismissed out of hand by either the government or Aboriginal leaders."

***National Post* April 24, 2004**
"As its name suggests, the report is suitably blunt about the Third World conditions common on reserves. And it does not shy away from bold solutions. Rather than simply tinkering with the present model, [the report] proposes doing away with reserves altogether."

MEDDLING·WITH·DEMOCRACY

In the Spring of 2004, a motion passed behind closed doors to have Aboriginal people sit, as permanent members, on the House of Commons Standing Committee for Aboriginal Affairs. The rationale for the motion is based on an inaccurate argument that Aboriginals are not adequately represented on the committee.

The motion called for the five federally-recognized and federally-funded Aboriginal groups to send a representative to sit as active — and permanent — members of the committee. These members will have the same rights as elected Members of Parliament, such as the ability to ask questions of witness, however; they will not be allowed to vote.

This idea was the brain-child of NDP MP Pat Martin who argues there needs to be more Aboriginal inclusion on the committee. Mr. Martin is quoted as saying, "It was so obvious to me that a bunch of white men in suits were sitting around the table passing laws affecting lives [of Aboriginal people] and they were waiting their turn for a lousy five minutes at the table as witnesses."

Newsflash for Pat Martin: Aboriginals *are* represented on the Committee.

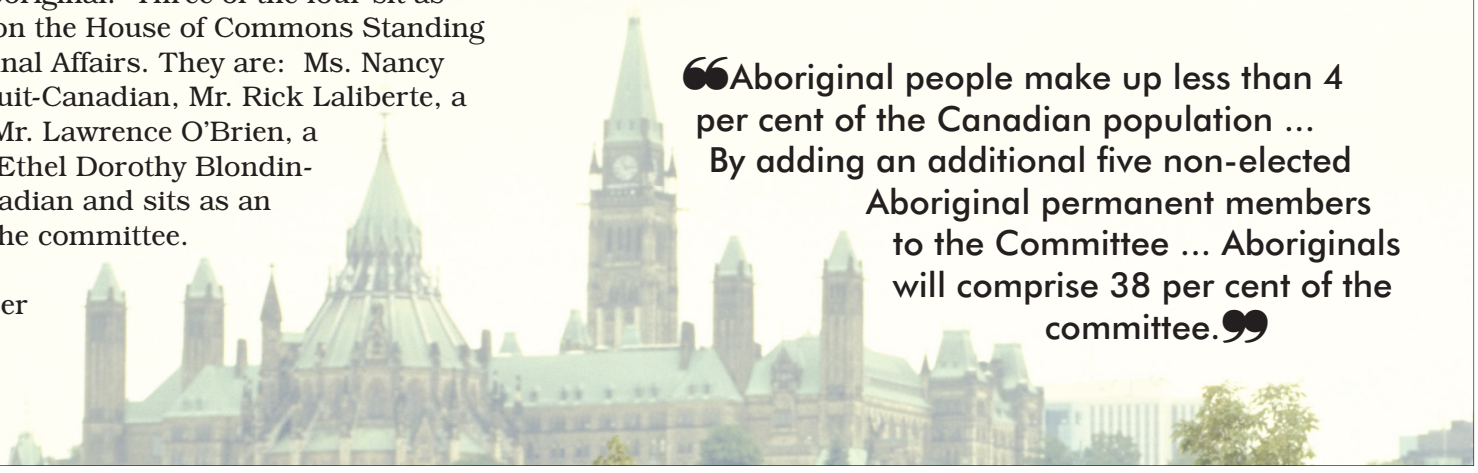
Currently there are four elected Members of Parliament who self-identify as Aboriginal. Three of the four sit as permanent members on the House of Commons Standing Committee for Aboriginal Affairs. They are: Ms. Nancy Karetak-Lindell, an Inuit-Canadian, Mr. Rick Laliberte, a Métis-Canadian, and Mr. Lawrence O'Brien, a Métis-Canadian. Ms. Ethel Dorothy Blondin-Andrew, is Native-Canadian and sits as an associate member of the committee.

Aboriginal people make up less than 4 per cent of the Canadian population. Prior to Mr. Martin's proposal being adopted, 18 per cent of the 16 member committee was comprised of Aboriginal people. By adding an additional five non-elected Aboriginal permanent members to the committee — which will now have 21 members — Aboriginals will comprise 38 per cent of the committee. That's a ratio 9.5 times more than the Aboriginal population in Canada as a whole. This could be interpreted as over-representation.

The point of having an elected parliament is so the people of the country will be represented in the House. Canadians elect Members of Parliament — currently from 308 different constituencies — from all corners of the country to represent them and their communities. If constituents feel they have been poorly represented they have the opportunity to vote the Member of Parliament out of office. Hence there is a degree of accountability.

Regrettably, Canadians will not have any degree of accountability for the new members of the committee. And, to add insult to injury, Canadian taxpayers will pay the expenses for these unelected and unaccountable members.

Pat Martin may have thought his motion would strengthen democracy. Unfortunately, his meddling will only lead to a weaker and more unaccountable system.■



> "Aboriginal people make up less than 4 per cent of the Canadian population ... By adding an additional five non-elected Aboriginal permanent members to the Committee ... Aboriginals will comprise 38 per cent of the committee."

VICTORY FOR TAX EQUALITY

On April 29, 2004 the Supreme Court of Canada announced that the highest court in Canada would not hear the appeal of *Benoit v. Canada* — also known at the Treaty 8 appeal. As is usual, the Supreme Court of Canada did not provide an explanation as to why they would not hear the case.

Your CTF intervened at trial and again on appeal to argue for the equality of all Canadian taxpayers, regardless of race or ancestry. As interveners in *Benoit v. Canada*, we applaud the Supreme Court of Canada for not hearing the appeal. This is a great victory for all taxpayers, knowing that they will be treated equally regardless of race or ancestry. Our federal and provincial legislatures can create legitimate tax exemptions to fight poverty, but tax exemptions should never be based on race or ancestry.

Gordon Benoit, a Treaty 8 Indian, commenced a court action in 1992 claiming that Treaty 8 Indians (who occupy a large geographic area in Alberta, British Columbia, Saskatchewan, and the North West Territories) were given an oral pledge in 1899 that they and their descendants would be exempt from paying tax. In March of 2002, the Federal Trial Court ruled in Mr. Benoit's favour, declaring that descendants of the Treaty 8 Indians do not have to pay any tax at any time for any reason. In June of 2003, the Federal Court of Appeal reversed the trial judgement, dismissing Mr. Benoit's claim. The Supreme Court of Canada's decision to not hear the appeal means the Federal Court of Appeal judgement will stand.

This case had huge national implications. Indian leaders in Saskatchewan were pushing for all 100,000 people of Aboriginal descent in the province to be completely tax-free. They were arguing that if the ancestors from one treaty were promised a total tax exemption, the signatories of all treaties must get the same treatment. Obviously this would have created a tax system based on race, not income.

Your CTF was proud to be part of such an important case on your behalf.■

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